

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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IN RE: NATIONAL FOOTBALL	:	No. 2:12-md-02323-AB
LEAGUE PLAYERS' CONCUSSION	:	
INJURY LITIGATION	:	MDL No. 2323

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	:	<b>Hon. Anita B. Brody</b>
THIS DOCUMENT RELATES TO:	:	
ALL ACTIONS	:	

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**REPORT OF THE SPECIAL MASTERS**

1. Wendell E. Pritchett and Jo-Ann M. Verrier, as Special Masters appointed by the Court on July 13, 2016 (ECF 6871) pursuant to Article X of the Class Action Settlement Agreement (Settlement Agreement) in this matter, submit this Report to the Court alongside Status Reports from the Claims Administrator, Brown Greer LLC (Claims Administrator), and the Baseline Assessment Program Administrator, Garretson Resolution Group (BAP Administrator), to provide an update on the Agreement's effectuation and progress.

2. The Special Masters have reviewed the Status Reports submitted by both Administrators and find that these accurately and thoroughly reflect the work of both firms.

3. In the following, the Special Masters highlight some of the work detailed in the Status Reports and outline additional efforts made in the effectuation of the Settlement Agreement, augmenting the reports the Special Masters present weekly to the Court.

#### **Overall Administration**

4. The Special Masters participate in bi-weekly calls with the Claims Administrator and the BAP Administrator as well as in additional discussions and communications on as frequent basis as necessary to make decisions supporting the fair and efficient administration of the Settlement Agreement. One recent example is the work of the Claims Administrator and the Special Masters, under the Court's oversight, to develop and communicate revised rules regarding the functioning of the Monetary Award Fund (MAF) Physicians.

5. The Special Masters are constantly informed about the progress of all Claims through the Claims Administrator's systems (and as reported in Section 8 of the weekly Summary Report found on the NFL Concussion Settlement website) as well as on the Claims Administrator's ongoing efforts to build and maintain a robust corps of trained MAF Physicians. After review with the Claims Administrator, the Special Masters approve the monthly disbursement report to the Trustee authorizing payments of Monetary Awards to Settlement Class Members (SCMs) as well as to relevant attorneys, lienholders, and third-party funders where appropriate.

6. Likewise, the Special Masters are informed about the BAP Administrator's management of requests for and scheduling of Baseline Assessment Program examinations as well as of the BAP Administrator's on-going attempts to build and maintain an active and robust corps of trained BAP authorized neuropsychologists and neurologists and to encourage these

physicians to complete their evaluations of Retired NFL Players according to the terms of the Settlement Agreement and in a timely manner.

7. The Special Masters often serve as intermediaries between the Court and the Administrators and discuss these and all other matters arising in the efficient and fair administration of the Settlement Agreement in a weekly report to the Court.

### **Communication to Settlement Class Members**

8. The Claims Administrator maintains an interactive private and secure website for SCMs and for attorneys representing SCMs, as well as a public website available to all. As noted in the attached reports, the NFL Concussion Settlement website has received nearly 400,000 unique visits.

9. The Special Masters have worked closely with the Administrators and with counsel for the NFL Parties and Class Counsel (collectively, the Parties) to ensure widespread communication about issues affecting SCMs, and in particular deadlines that affect SCMs' ability to participate in several important aspects of the Settlement Program.

10. As a result, SCMs received notice of the February 6, 2019 pre-Effective Date diagnosis claim deadline and will soon receive notice of the June 6, 2019 deadline for requesting participation in the Baseline Assessment Program.

11. The Administrators report weekly to the Special Masters about the active and on-going communication via calls and email that both handle in the effective administration of the Settlement Agreement, with the Claims Administrator handling nearly 44,000 calls and 21,000 emails and the BAP Administrator processing more than 25,000 calls. Both Administrators track

and report on these call topics and on hold times for callers, with an eye to ensuring the prompt and efficient handling of all requests.

12. The Claims Administrator has worked with the BAP Administrator, the Parties, and the Special Masters to publish a monthly newsletter to keep SCMs, attorneys who represent SCMs, and other interested parties apprised of Settlement Agreement matters. These, with a host of detailed reports, are posted to the public website.

### **Audits**

13. Under the terms of Section 10.3 of the Settlement Agreement, the Special Masters review determinations of the Claims Administrator concerning misrepresentation, omission, or concealment of a material fact in connection with a Monetary Award Claim.

14. As reported by the Claims Administrator, the Special Masters have considered and decided on 14 audits and have two audits under consideration at present.

### **Special Investigator**

15. Upon a motion of the NFL Parties and at the request of the Special Masters, the Court appointed a Special Investigator on December 10, 2018 (ECF 10355).

16. The Special Masters are in constant communication, formalized in a bi-weekly conference call, with the Special Investigator, to discuss on-going investigations, proposed investigations, and results of investigations.

17. To date, the Special Masters have referred one individual SCM, one litigation funding company, and three law firms to the Special Investigator.

18. The Special Investigator found, in the first of these, that an affidavit presented to a physician as part of the claim contained false statements. After receiving this report, the Special Masters directed the Claims Administrator to deny the SCM's Monetary Award Claim.

### **Appeals**

19. Alongside the Special Master's authority to hear appeals of registration determinations under the terms of Section 10.1(b)(i)(3) of the Settlement Agreement, the Court has directed the Special Masters to hear appeals of the Claims Administrator's decisions on Claims pursuant to the Rules Governing Appeals of Claim Determinations.

20. To date, the Special Masters have heard 34 registration appeals, upholding the Claims Administrator's decision in 31 of them and overturning the decision in three.

21. To date, the Special Masters have heard 181 Monetary Award Claim appeals, upholding the Claims Administrator's decision in 164 of them and overturning the decision in 17.

### **Statute of Limitations Matters**

22. The Special Masters are charged, under the Rules Governing Statute of Limitations Proceedings, with deciding whether claims by SCMs regarding Players who died prior to January 1, 2006, are eligible for a Monetary Award pursuant to Article 6.2(b) of the Settlement Agreement.

23. At the direction of the Court and with consent of the Parties, this determination will be considered after all claims presenting this issue are briefed and the relevant parties are

heard on the matter to allow for a uniform and efficient processing of all claims. It is anticipated that all briefs will be received by September 17, 2019.

#### **Monitoring of the Qualified Attorneys' Settlement Fund**

24. Pursuant to order of the Court, the BAP Administrator serves as Trustee of an Attorney's Fees Qualified Settlement Fund under Section 23.7 of the Settlement Agreement. The Fund is established for the payment of attorneys' fees.

25. The Special Masters request and review reports on the performance of the Attorneys' Fees Qualified Settlement Fund to assure timely availability of funds, pursuant to the Settlement Agreement.

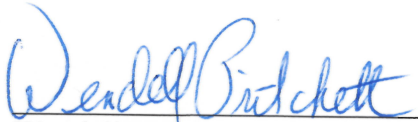
26. The Court appointed a Pro Se Liaison to assist pro se Representative Claimants who are pursuing claims involving Statute of Limitations matters. The Pro Se Liaison's fees are paid from interest earned on the Qualified Attorneys' Settlement Trust. One of the Special Masters reviews the Pro Se Liaison's time on a monthly basis to ensure that work is incurred in the fair and efficient administration of the Settlement Agreement, per the Court's appointment.

#### **Education Fund**


27. At the request of the Court, the Special Masters have been working with Class Counsel and Counsel for the NFL Parties to establish, pursuant to Article XII of the Settlement Agreement, programs promoting safety and injury prevention with respect to football players. These programs will be paid for out of a Fund established under Article XII and funded by the NFL Parties.

28. This process is proceeding with cooperation and support of all involved and the Parties expect to present the Court with a collaboratively designed formal proposal for the effectuation of this requirement of the Settlement Agreement during the summer of 2019. This proposal will include suggestions for the active participation of Retired NFL Football Players in the Education Fund initiatives.

Respectfully submitted,



Wendell E. Pritchett  
Special Master



Jo-Ann M. Verrier  
Special Master